

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTONDEFENDERS OF WILDLIFE, *et al.*,

Plaintiffs,

v.

SUSAN MARTIN, *et al.*,

Defendants,

and

IDAHO STATE SNOWMOBILE
ASSOC., *et al.*,

Defendant-Intervenors.

NO. CV-05-248-RHW

**ORDER DENYING MOTION
FOR RECONSIDERATION,
SETTING TRIAL DATE**

Before the Court is Plaintiffs' Motion for Reconsideration (Ct. Rec. 141). A telephonic hearing was held on January 4, 2007. Lauren Rule and Michael Leahy represented the Plaintiffs; Joseph Kim appeared on behalf of Defendants; and Paul Turcke and Mark Ellingsen represented Defendant-Intervenors. This Order reflects the Court's oral rulings.

"[A] motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (quoting *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)). It is considered an "extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources." *Id.* A motion

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1 under Rule 59(e) “may *not* be used to raise arguments or present evidence for the
 2 first time when they could reasonably have been raised earlier in the litigation.” *Id.*
 3 (emphasis in original).

4 The Court finds Plaintiffs have not satisfied the requirements under Rule
 5 59(e), and it will also not consider the third declaration of Plaintiffs’ expert Keith
 6 Simpson. Therefore, Plaintiffs’ Motion for Reconsideration is denied. However,
 7 the Court recognizes that highly contested issues remain regarding the proper
 8 extent of any injunction prohibiting or allowing snowmobiling within the Caribou
 9 Recovery Area of the Idaho Panhandle National Forest. Therefore, the Court has
 10 expedited a trial on the merits regarding the remaining issues within the IPNF.¹

11 Accordingly, **IT IS HEREBY ORDERED:**

12 1. Plaintiffs’ Motion for Reconsideration (Ct. Rec. 141) is **DENIED**.

13 2. A non-jury trial is **set for February 12, 2007, at 8:30 a.m., in Spokane,**
 14 **Washington.** Counsel shall meet in chambers at 8:00 a.m. on the day of trial.

15 3. Trial briefs shall be filed and served on or before **January 29, 2007.**

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
 17 Order and forward copies to counsel.

18 **DATED** this 8th day of January, 2007.

19 *S/ Robert H. Whaley*

20 **ROBERT H. WHALEY**
 21 Chief United States District Judge

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24 _____
 25 ¹ The Court assumes this trial will be limited to Plaintiffs’ remaining claims
 26 regarding the IPNF. However, if the parties want to include for the Court’s
 27 consideration their arguments concerning the Colville National Forest as well, they
 28 should alert the Court in subsequent filings.